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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,418	07/20/2001	Matthew D. Ferris	2316.1563US01	2646

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EXAMINER

HARRINGTON, ALICIA M

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/910,418

Applicant(s)

FERRIS ET AL.

Examiner

Alicia M Harrington

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-8 and 10-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-8, 10, 14-18 and 21-27 is/are allowed.
- 6) ☒ Claim(s) 11-13, 19, 28 and 30 is/are rejected.
- 7) ☒ Claim(s) 20, 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. **This application has been transferred to Examiner Harrington.**

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 11-13, 19, 28 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Curry et al (US 6,245,998).

Regarding claim 11, Curry et al discloses, as in claim 11, a cover (figure 2, 54) for covering a cable trough (figure 2,28), the cover plate comprising: a cover plate having first and second opposite edges as shown in figure 2, a first pivot (figure 2, the lower portion part of member 56) post disposed along the first edge of the cover plate; a second pivot (figure 2, the lower portion part of member 58) post disposed along the second edge of the cover plate, the second pivot post being parallel to the first pivot post as illustrated in figure 2; wherein the cover plate defines at least one slot along each pivot post (figure 2,56 and 58).

Regarding claim 12, Curry et al discloses, as in claim 12, the cover of claim 11 wherein the cover plate defines a plurality of slots along each pivot post (figure 2, slots 56 and 60 for the first pivot post; slots 58 and 62 for the second pivot post).

Regarding claim 13, Curry et al discloses, as in claim 13, the cover of claim 11 wherein the cover plate defines a uniform cross section except for the slots as illustrated figure 2.

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Regarding claim 19, Curry et al discloses, as in claim 19, a cable trough and cover assembly (figure 2) comprising: a cable trough (figure 2, 28) have a base (figure 2, 32) and two side walls (figure 2, 30 and 34) extending from the base; a cover plate (2, 54) having a pivot member (figure 2, the lower portion part of member 56) along at least one edge; a hinge pedestal (figure 2, 50) having a base portion secured to the base of the cable trough and an extending body extending away from the base portion as illustrated figure 2, the extending body defining a pocket, the pocket sized to releasably receive the pivot member of the cover plate so that the cover plate may be rotated relative to the trough by rotation of the pivot member within the pocket (col. 3, lines 46-61).

Regarding claim 28, Curry et al discloses cover and hinge assembly, as in claim 28, see figure 2 comprising: a cover plate (figure 2, 54) having a first pivot member along a first edge (the top edge/to one side of member 56) and a second pivot member along a second edge (the bottom edge/to the other side of member 56) opposite the first edge; a first hinge member (figure 2, 50) defining a pocket releasable holding the first pivot member so that the cover plate may be rotated (see col. 3, lines 46-61); a second hinge member (figure 2, 50) defining a pocket, the second pocket releasably holding the second pivot member of the cover plate so that the cover plate may be rotated (see col. 3, lines 46-61).

Regarding claim 30, Curry et al discloses a cable trough and cover assembly, as in claim 30, see figure 2 comprising: a cable trough (10) having a base (figure 2, 32) and two side walls (figure 2, 30 and 34) having a top and bottom edge extending from the base; a cover plate (figure 2, 54) having a pivot member (the lower portion of member 56); and a hinge member (figure 2, 50) defining a detent pocket, the hinge member being positioned along the top edge of the side walls

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of the cable trough, the detent member releasably holding the pivot member of the cover plate so that the cover plate may be rotated (see col. 3, lines 46-61).

*Allowable Subject Matter*

4. Claims 1-3, 5-8, 10, 14-18, 21-27 is allowed.

5. Claims 20 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which include the hinge member include two arms coupled by a middle arm forming a U-shaped recess for receiving the sidewall of the trough.

Regarding claims 14, 21, 27, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which include the hinge member include two arms coupled by a middle arm forming a U-shaped recess for receiving the sidewall of the trough.

Regarding claim 24, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which include a hinged pedestal that comprises an

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upstanding wall extending from a base defining a pocket sized to receive a pivot member of a rotating cover plate to be mounted on a cable trough.

### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### *Response to Arguments*

8. Applicant's arguments filed on 3/4/03 have been fully considered but they are not persuasive. Applicant argues Curry et al doesn't meet the limitations of claim 11. However, the Examiner must respectfully disagree. The claimed first and second pivot post are at opposite edges of the member 56. And the claim fails to recite that cover is pivoted in a clockwise or counter-clockwise direction; thus, applicant is arguing a limitation that is not in the claim. Applicant further argues that member 50 is not attached to the base. Again the Examiner must

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respectfully disagree. The member 50 in figure 2 is attached to the base via a wall. Thus, the previous rejection will be repeated.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M Harrington whose telephone number is 703 308 9295.

The examiner can normally be reached on Monday - Thursday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 703 308 4883. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 7724 for regular communications and 703 308 7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.



AMH  
May 29, 2003

Alicia M Harrington  
Examiner  
Art Unit 2873



RICKY MACK  
PRIMARY EXAMINER